

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF THE SPECIAL MASTERS  
No. 04-323V  
Filed: March 12, 2010**

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MARC BARON, parent of	*
EL SKOB HELT BARON, a minor,	*
	*
Petitioner,	*
	*
v.	*
	*
SECRETARY OF THE DEPARTMENT OF	*
HEALTH AND HUMAN SERVICES,	*
	*
Respondent.	*
	*

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**DECISION<sup>1</sup>**

**VOWELL**, Special Master:

The above-named petitioner filed a Petition For Compensation on March 5, 2004. Thereafter, petitioner failed to file most of the medical records<sup>2</sup> and/or a “Statement of Compliance with Phase One Medical Records Production” as ordered by the undersigned on November 14, 2008. I granted petitioner’s attorney’s motion to withdraw from this case on August 27, 2009, and ordered petitioner to provide a status report to the court. Petitioner failed to respond to that order, and failed to respond to a subsequent order, issued November 17, 2009, to provide a status report. On January 13, 2010, I ordered petitioner to file medical records in this case or show cause by February 12, 2010, why this case should not be dismissed for failure to prosecute. Petitioner failed to respond to that order as well.

The undersigned warned petitioner that noncompliance with court orders would not be tolerated and could lead to dismissal of petitioner’s claim. See Order filed

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

<sup>2</sup> I note that the medical records filed, an immunization record on March 5, 2004 and a birth certificate on April 22, 2004, are insufficient to meet the requirements of my November 14, 2008 order.

November 17, 2009; Order filed January 13, 2010. Further, the undersigned warned petitioner in the court's January 13, 2010 order that "[f]ailure to follow court orders, as well as failure to file medical records or an expert medical opinion, shall result in dismissal of petitioner's claim." Order filed January 13, 2010 (citing *Tsekouras v. Sec'y, HHS*, 26 Cl. Ct. 439 (1992), *aff'd per curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y, HHS*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b)).

Petitioner has failed to file sufficient medical records or the opinion of an expert to support petitioner's claim in the instant case.<sup>3</sup> Additionally, petitioner has failed to respond to any of the court's orders in the instant case. Accordingly, pursuant to Vaccine Rule 21(b), the undersigned dismisses petitioner's claim for failure to prosecute, failure to comply with the Vaccine Rules, and failure to comply with the court's orders. The Clerk shall enter judgment accordingly.

**IT IS SO ORDERED.**

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**Denise K. Vowell**  
Special Master

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<sup>3</sup> The Vaccine Act provides that a special master cannot find that a petitioner has proven his case by a preponderance of the evidence based upon "the claims of a petitioner alone, unsubstantiated by medical records or medical opinion." 42 U.S.C. § 300aa-13(a). Petitioner's failure to file medical records has prevented the undersigned from addressing any aspect of the merits of petitioner's claim.